

48A C.J.S. Judges § 118

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

V. Discipline, Suspension, or Removal

C. Grounds

§ 118. Error of judgment or of law or in exercise of discretion

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  11(4)

A judicial determination or mistake based merely on errors of judgment, or an error in the decision of a particular case, without corrupt or improper motives, will not ordinarily supply a ground for removal.

A judicial determination or mistake based merely on errors of judgment,¹ or an error in the decision of a particular case,² without corrupt or improper motives, will not ordinarily supply a ground for removal. Mere erroneous exercise of discretionary power,³ or mere errors of law,⁴ may not be sufficient to support disciplinary proceedings.

Mere error of law by a judge is a matter for appeal and does not raise a question of improper judicial conduct subject to judicial discipline.⁵

However, legal error and judicial misconduct are not mutually exclusive, and judge is not immune from discipline merely because the judge's conduct also constitutes legal error.⁶ Thus, a judge may be properly sanctioned for a legal error when the judge acted in bad faith, engaged in a pattern of misconduct, or when the judge's legal ruling or action was made contrary to clear and settled law about which there is no confusion or question as to its interpretation.⁷

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Footnotes

¹ U.S.—*In re Judicial Misconduct*, 726 F.3d 1060 (9th Cir. 2013).

Ga.—*Leitch v. Fleming*, 291 Ga. 669, 732 S.E.2d 401 (2012).

W. Va.—*West Virginia Judicial Inquiry Commission v. Dostert*, 165 W. Va. 233, 271 S.E.2d 427 (1980).

2 Iowa—*In re Judges of Municipal Court of City of Cedar Rapids*, 256 Iowa 1135, 130 N.W.2d 553 (1964).

3 Mass.—*Matter of King*, 409 Mass. 590, 568 N.E.2d 588 (1991).

Tex.—*Matter of Davila*, 631 S.W.2d 723 (Tex. 1982).

Ethics violation

Error in the exercise of judicial discretion is not necessarily an ethics violation.

S.D.—*Bailey v. Duling*, 2013 SD 15, 827 N.W.2d 351 (S.D. 2013).

4 Ga.—*Leitch v. Fleming*, 291 Ga. 669, 732 S.E.2d 401 (2012).

La.—*In re Boothe*, 110 So. 3d 1002 (La. 2013).

Miss.—*Mississippi Com'n on Judicial Performance v. Thompson*, 80 So. 3d 86 (Miss. 2012).

Utah—*In re Worthen*, 926 P.2d 853 (Utah 1996).

5 U.S.—*In re Judicial Misconduct*, 527 F.3d 792 (9th Cir. Jud. Council 2008), order aff'd, 550 F.3d 769 (9th Cir. 2008).

Tex.—*In re Lowery*, 999 S.W.2d 639 (Tex. Review Trib. 1998).

Procedural errors

Utah—*In re Stoney*, 2012 UT 64, 289 P.3d 497 (Utah 2012).

6 Tex.—*In re Lowery*, 999 S.W.2d 639 (Tex. Review Trib. 1998).

7 La.—*In re Boothe*, 110 So. 3d 1002 (La. 2013).

Ky.— *Alred v. Com., Judicial Conduct Com'n*, 395 S.W.3d 417 (Ky. 2012), reh'g denied and opinion modified, (Oct. 25, 2012).